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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,824	05/14/2001	Kristin J. Godbey	56466USA.002	9149

32692 7590 05/02/2006

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EXAMINER

AHMED, HASAN SYED

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/854,824

Applicant(s)

GODBEY ET AL.

Examiner

Hasan S. Ahmed

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt is acknowledged of Applicant's amended claims and remarks filed on 29 September 2005. The previous rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103 have been withdrawn. The following is a new grounds of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-39 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Sieverding (U.S. Patent No. 4,750,482) in view of Katz, et. al. (U.S. Patent No. 5,028,435).

Sieverding teaches (see fig. 2) a hydrophilic, elastomeric, pressure-sensitive adhesive which may be used as a coating on a supportive web-like substrate for delivering an active agent, as well as a cosmetic face mask (see col. 17, lines 29-33; col. 18, lines 28-57). Examples of the pharmacologically active agents include analgesics, hormones and antirheumatics.

Sieverding discloses that the adhesive may be used as a carrier for a depilatory agent (see col. 18, lines 54-57) and may contain skin conditioners, perfumes, acne medication, antiperspirants, sunscreens, sun tanning materials and humectants.

Sieverding teaches polymers consisting of polyvinyl alcohol, monomers, polyhydric alcohols such as glycerin and propylene glycol (see col. 9, lines 31-68; col. 10-14).

The Sieverding reference differs from the instant case only in that it does not teach use of a protein and a carbohydrate.

Katz, et. al. teach use of a protein and a carbohydrate in a transdermal system.

Katz, et. al. disclose a transdermal delivery system comprising a backing having a matrix layer which incorporates a drug and a percutaneous enhancer for the drug. At least one of the drug and enhancer is contained within a plurality of polymeric particles dispersed throughout the matrix layer (see col. 3, lines 58-62). The particles may be formed using natural polymers such as arabinogalactan and gelatin (see col. 7, lines 28-32).

Katz, et. al. explain that polymers such as arabinogalactan and gelatin are useful because they contribute to the stability of the transdermal drug delivery device, as well as to a long shelf life for the device (see col. 7, lines 14-19).

Thus, it would have been obvious for one of ordinary skill in the art at the time of the invention to add a protein, such as collagen, and a carbohydrate, such as arabinogalactan to a transdermal delivery device, as taught by Sieverding in view of Katz, et. al. Motivation to do so, as explained above, would come from increased stability and longer self life of the device.

Response to Arguments

Applicant's arguments filed on 29 September 2005 have been fully considered but they are not persuasive. The instant responses address those arguments relevant to the new grounds of rejection.

Applicants argue that Sieverding fails to disclose a water-dispersible layer. Examiner reads "hydrophilic" to be a functional to be functionally equivalent to "water-dispersible." Dispersion is a relative, not absolute characterization of a material. Sieverding discloses a material that absorbs moisture, and is dispersed as a result.

Applicants argue that Sieverding fails to disclose a support/carrier/adhesive layer construction. Examiner reads the foam/non-woven fabric/adhesive layers as functional equivalents (see fig. 1, col. 8, lines 67-68).


Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hasan S. Ahmed whose telephone number is 571-272-4792. The examiner can normally be reached on 9am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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